



Reprinted
January 12, 2022

SENATE BILL No. 70

DIGEST OF SB 70 (Updated January 11, 2022 2:59 pm - DI 106)

Citations Affected: IC 35-31.5; IC 35-38; IC 35-42; IC 35-44.1; IC 35-45; IC 35-46.

Synopsis: Obstruction of justice. Provides that a person commits obstruction of justice if the person persuades a witness in a legal proceeding to: (1) withhold or delay producing evidence that the witness is legally required to produce; (2) avoid a subpoena or court order; (3) not appear at a proceeding to which the witness has been summoned; or (4) give a false or materially misleading statement. Establishes a uniform definition of "communicates" for the criminal code. Makes other changes and conforming amendments.

Effective: July 1, 2022.

Crider, Houchin

January 4, 2022, read first time and referred to Committee on Corrections and Criminal Law.
January 6, 2022, amended, reported favorably — Do Pass.
January 11, 2022, read second time, amended, ordered engrossed.

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Reprinted
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Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 70

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-2-47.5, AS ADDED BY P.L.123-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 47.5. "Communicates" **or "communicating"** for
4 purposes of IC 35-45-2-1, has the meaning set forth in IC 35-45-2-1(c).
5 **means to make a statement to another person, directly, indirectly,**
6 **or through an intermediary. The term includes a statement made**
7 **to another person or on behalf of another person by any medium,**
8 **including in person, in writing, electronically, on a social**
9 **networking web site, or telephonically.**

10 SECTION 2. IC 35-38-2-2.7, AS ADDED BY P.L.247-2013,
11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2022]: Sec. 2.7. As a condition of probation or parole after
13 conviction for a sex offense (as defined in IC 11-8-8-5.2), the court
14 shall prohibit the convicted person from using a social networking web
15 site or an instant messaging or chat room program to communicate
16 ~~directly or through an intermediary~~, with a child less than sixteen (16)
17 years of age. However, the court may permit the offender to

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1 communicate using a social networking web site or an instant
2 messaging or chat room program with:

- 3 (1) the offender's own child, stepchild, or sibling; or
4 (2) another relative of the offender specifically named in the
5 court's order.

6 SECTION 3. IC 35-44.1-2-2, AS AMENDED BY P.L.174-2021,
7 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2022]: Sec. 2. (a) A person who:

9 (1) knowingly or intentionally induces, **by persuasion, or by**
10 threat, coercion, false statement, or offer of goods, services, or
11 anything of value, a witness or informant in a legal proceeding or
12 an administrative or criminal investigation to:

13 (A) withhold or unreasonably delay in producing any
14 testimony, information, document, or thing **that the witness**
15 **or informant is legally required to produce;**

16 (B) avoid legal process summoning the person to testify or
17 supply evidence; ~~or~~

18 (C) absent the person from a proceeding or investigation to
19 which the person has been legally summoned; **or**

20 **(D) give a false or materially misleading statement;**

21 (2) knowingly or intentionally in a legal proceeding or an
22 administrative or criminal investigation:

23 (A) withholds or unreasonably delays in producing any
24 testimony, information, document, or thing after a court orders
25 the person to produce the testimony, information, document,
26 or thing;

27 (B) avoids legal process summoning the person to testify or
28 supply evidence; or

29 (C) absents the person from a proceeding or investigation to
30 which the person has been legally summoned;

31 (3) alters, damages, or removes any record, document, or thing,
32 with intent to prevent it from being produced or used as evidence
33 in any legal proceeding or administrative or criminal
34 investigation;

35 (4) makes, presents, or uses a false record, document, or thing
36 with intent that the record, document, or thing, material to the
37 point in question, appear in evidence in a legal proceeding or an
38 administrative or criminal investigation to mislead a public
39 servant; or

40 (5) communicates ~~directly or indirectly~~, with a juror otherwise
41 than as authorized by law, with intent to influence the juror
42 regarding any matter that is or may be brought before the juror;



1 commits obstruction of justice, a Level 6 felony, except as provided in
2 subsection (b).

3 (b) Except as provided in subsection (e), the offense described in
4 subsection (a) is a Level 5 felony if, during the investigation or
5 pendency of a domestic violence or child abuse case under subsection
6 (c), a person knowingly or intentionally:

7 (1) offers, gives, or promises any benefit to;

8 (2) communicates a threat as defined by IC 35-45-2-1(c) to; or

9 (3) intimidates, unlawfully influences, or unlawfully persuades;
10 any witness to abstain from attending or giving testimony at any
11 hearing, trial, deposition, probation, or other criminal proceeding or
12 from giving testimony or other statements to a court or law
13 enforcement officer under IC 35-31.5-2-185.

14 (c) As used in this section, "domestic violence or child abuse case"
15 means any case involving an allegation of:

16 (1) the commission of a crime involving domestic or family
17 violence under IC 35-31.5-2-76 involving a family or household
18 member under IC 35-31.5-2-128;

19 (2) the commission of a crime of domestic violence under
20 IC 35-31.5-2-78 involving a family or household member under
21 IC 35-31.5-2-128; or

22 (3) physical abuse, sexual abuse, or child neglect, including
23 crimes listed under IC 35-31.5-2-76 involving a victim who was
24 less than eighteen (18) years of age at the time of the offense,
25 whether or not the person is a family or household member under
26 IC 35-31.5-2-128.

27 (d) Subsection (a)(2)(A) does not apply to:

28 (1) a person who qualifies for a special privilege under IC 34-46-4
29 with respect to the testimony, information, document, or thing; or

30 (2) a person who, as:

31 (A) an attorney;

32 (B) a physician;

33 (C) a member of the clergy; or

34 (D) a husband or wife;

35 is not required to testify under IC 34-46-3-1.

36 (e) ~~Subsection (b) does~~ **Subsections (a) and (b) do** not apply to:

37 (1) an attorney;

38 (2) an investigator;

39 (3) a law enforcement officer; or

40 (4) a judge;

41 engaged in that person's professional or official duties.

42 SECTION 4. IC 35-42-4-12, AS AMENDED BY P.L.168-2014,

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1 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2022]: Sec. 12. (a) This section applies only to a sex offender
3 (as defined in IC 11-8-8-4.5).

4 (b) A sex offender who knowingly or intentionally violates a:

5 (1) condition of probation;

6 (2) condition of parole; or

7 (3) rule of a community transition program;

8 that prohibits the offender from using a social networking web site or
9 an instant messaging or chat room program to communicate ~~directly or~~
10 ~~through an intermediary~~; with a child less than sixteen (16) years of age
11 commits a sex offender Internet offense, a Class A misdemeanor.
12 However, the offense is a Level 6 felony if the person has a prior
13 unrelated conviction under this section.

14 (c) It is a defense to a prosecution under subsection (b) that the
15 person reasonably believed that the child was at least sixteen (16) years
16 of age.

17 SECTION 5. IC 35-45-2-1, AS AMENDED BY P.L.66-2019,
18 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2022]: Sec. 1. (a) A person who communicates a threat with
20 the intent:

21 (1) that another person engage in conduct against the other
22 person's will;

23 (2) that another person be placed in fear of retaliation for a prior
24 lawful act;

25 (3) of:

26 (A) causing:

27 (i) a dwelling, a building, or other structure; or

28 (ii) a vehicle;

29 to be evacuated; or

30 (B) interfering with the occupancy of:

31 (i) a dwelling, building, or other structure; or

32 (ii) a vehicle; or

33 (4) that another person be placed in fear that the threat will be
34 carried out, if the threat is a threat described in:

35 (A) subsection (d)(1) through (d)(5); or

36 (B) subsection (d)(7) through (d)(8);

37 commits intimidation, a Class A misdemeanor.

38 (b) However, the offense is a:

39 (1) Level 6 felony if:

40 (A) the threat is to commit a forcible felony;

41 (B) the subject of the threat or the person to whom the threat
42 is communicated is a witness (or the spouse or child of a



- 1 witness) in any pending criminal proceeding against the
 2 person making the threat;
 3 (C) the threat is communicated because of the occupation,
 4 profession, employment status, or ownership status of a person
 5 or the threat relates to or is made in connection with the
 6 occupation, profession, employment status, or ownership
 7 status of a person;
 8 (D) the person has a prior unrelated conviction for an offense
 9 under this section concerning the same victim; or
 10 (E) the threat is communicated using property, including
 11 electronic equipment or systems, of a school corporation or
 12 other governmental entity; and
 13 (2) Level 5 felony if:
 14 (A) while committing it, the person draws or uses a deadly
 15 weapon;
 16 (B) the subject of the threat or the person to whom the threat
 17 is communicated:
 18 (i) is a judicial officer or bailiff of any court; or
 19 (ii) is a prosecuting attorney or a deputy prosecuting
 20 attorney;
 21 and the threat relates to the person's status as a judicial officer,
 22 bailiff, prosecuting attorney, or deputy prosecuting attorney, or
 23 is made in connection with the official duties of the judicial
 24 officer, bailiff, prosecuting attorney, or deputy prosecuting
 25 attorney; or
 26 (C) the threat is:
 27 (i) to commit terrorism; or
 28 (ii) made in furtherance of an act of terrorism.
 29 (c) "Communicates" includes posting a message electronically,
 30 including on a social networking web site (as defined in
 31 IC 35-31.5-2-307);
 32 (d) (c) "Threat" means an expression, by words or action, of an
 33 intention to:
 34 (1) unlawfully injure the person threatened or another person, or
 35 damage property;
 36 (2) unlawfully subject a person to physical confinement or
 37 restraint;
 38 (3) commit a crime;
 39 (4) unlawfully withhold official action, or cause such withholding;
 40 (5) unlawfully withhold testimony or information with respect to
 41 another person's legal claim or defense, except for a reasonable
 42 claim for witness fees or expenses;



1 (6) expose the person threatened to hatred, contempt, disgrace, or
2 ridicule;

3 (7) falsely harm the credit or business reputation of a person; or

4 (8) cause the evacuation of a dwelling, a building, another
5 structure, or a vehicle. For purposes of this subdivision, the term
6 includes an expression that would cause a reasonable person to
7 consider the evacuation of a dwelling, a building, another
8 structure, or a vehicle, even if the dwelling, building, structure, or
9 vehicle is not evacuated.

10 SECTION 6. IC 35-45-10-3, AS AMENDED BY P.L.266-2019,
11 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2022]: Sec. 3. (a) As used in this chapter, "impermissible
13 contact" includes the following:

14 (1) Following or pursuing the victim.

15 (2) Communicating with the victim. ~~in person, in writing, by~~
16 ~~telephone, by telegraph, or through electronic means.~~

17 (3) Posting on social media, if the post:

18 (A) is directed to the victim; or

19 (B) refers to the victim, directly or indirectly.

20 (b) The list in subsection (a) is nonexclusive.

21 SECTION 7. IC 35-46-1-13, AS AMENDED BY P.L.238-2015,
22 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2022]: Sec. 13. (a) A person who:

24 (1) believes or has reason to believe that an endangered adult or
25 person of any age who has a mental or physical disability is the
26 victim of battery, neglect, or exploitation as prohibited by this
27 chapter or IC 35-42-2-1; and

28 (2) knowingly fails to report the facts supporting that belief to the
29 division of disability and rehabilitative services, the division of
30 aging, the adult protective services unit designated under
31 IC 12-10-3, or a law enforcement agency having jurisdiction over
32 battery, neglect, or exploitation of an endangered adult;

33 commits a Class B misdemeanor.

34 (b) An officer or employee of the division or adult protective
35 services unit who unlawfully discloses information contained in the
36 records of the division of aging under IC 12-10-3-12 through
37 IC 12-10-3-15 commits a Class C infraction.

38 (c) A law enforcement agency that receives a report that an
39 endangered adult or person of any age who has a mental or physical
40 disability is or may be a victim of battery, neglect, or exploitation as
41 prohibited by this chapter or IC 35-42-2-1 shall immediately
42 ~~communicate~~ **transmit** the report to the adult protective services unit



1 designated under IC 12-10-3.
2 (d) An individual who discharges, demotes, transfers, prepares a
3 negative work performance evaluation, reduces benefits, pay, or work
4 privileges, or takes other action to retaliate against an individual who
5 in good faith makes a report under IC 12-10-3-9 concerning an
6 endangered individual commits a Class A infraction.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 70, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, after "induces," insert "**by persuasion, or**".

Page 1, line 9, delete "thing;" and insert "thing **that the witness or informant is legally required to produce;**".

Page 1, line 11, strike "or".

Page 1, line 13, after "summoned;" insert "**or**

(D) give a false or materially misleading statement;".

Page 2, line 16, delete "communicates," and insert "communicates".

Page 2, line 16, strike "directly or indirectly,".

Page 2, line 26, reset in roman "or".

Page 2, delete lines 28 through 29.

Page 2, line 30, delete ", including".

Page 2, line 31, delete "giving untruthful testimony,".

Page 2, line 31, delete "taped".

Page 2, line 32, delete "statement,".

Page 2, line 33, delete ", including giving untruthful testimony,".

Page 3, line 15, strike "Subsection (b) does" and insert "**Subsections**

(a) and (b) do".

Page 3, reset in roman line 16.

Page 3, line 17, reset in roman "(2)".

Page 3, line 17, delete "(1)".

Page 3, line 18, reset in roman "(3)".

Page 3, line 18, delete "(2)".

Page 3, line 19, reset in roman "(4)".

Page 3, line 19, delete "(3)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 70 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 2.

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SENATE MOTION

Madam President: I move that Senate Bill 70 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-31.5-2-47.5, AS ADDED BY P.L.123-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 47.5. "Communicates" **or "communicating"** for purposes of IC 35-45-2-1, ~~has the meaning set forth in IC 35-45-2-1(c).~~ **means to make a statement to another person, directly, indirectly, or through an intermediary. The term includes a statement made to another person or on behalf of another person by any medium, including in person, in writing, electronically, on a social networking web site, or telephonically.**

SECTION 2. IC 35-38-2-2.7, AS ADDED BY P.L.247-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2.7. As a condition of probation or parole after conviction for a sex offense (as defined in IC 11-8-8-5.2), the court shall prohibit the convicted person from using a social networking web site or an instant messaging or chat room program to communicate ~~directly or through an intermediary~~, with a child less than sixteen (16) years of age. However, the court may permit the offender to communicate using a social networking web site or an instant messaging or chat room program with:

- (1) the offender's own child, stepchild, or sibling; or
- (2) another relative of the offender specifically named in the court's order."

Page 3, after line 19, begin a new paragraph and insert:

"SECTION 4. IC 35-42-4-12, AS AMENDED BY P.L.168-2014, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 12. (a) This section applies only to a sex offender (as defined in IC 11-8-8-4.5).

(b) A sex offender who knowingly or intentionally violates a:

- (1) condition of probation;
- (2) condition of parole; or
- (3) rule of a community transition program;

that prohibits the offender from using a social networking web site or an instant messaging or chat room program to communicate ~~directly or through an intermediary~~, with a child less than sixteen (16) years of age commits a sex offender Internet offense, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior



unrelated conviction under this section.

(c) It is a defense to a prosecution under subsection (b) that the person reasonably believed that the child was at least sixteen (16) years of age.

SECTION 5. IC 35-45-2-1, AS AMENDED BY P.L.66-2019, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) A person who communicates a threat with the intent:

- (1) that another person engage in conduct against the other person's will;
- (2) that another person be placed in fear of retaliation for a prior lawful act;
- (3) of:
 - (A) causing:
 - (i) a dwelling, a building, or other structure; or
 - (ii) a vehicle;
 to be evacuated; or
 - (B) interfering with the occupancy of:
 - (i) a dwelling, building, or other structure; or
 - (ii) a vehicle; or
- (4) that another person be placed in fear that the threat will be carried out, if the threat is a threat described in:
 - (A) subsection (d)(1) through (d)(5); or
 - (B) subsection (d)(7) through (d)(8);
 commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

- (1) Level 6 felony if:
 - (A) the threat is to commit a forcible felony;
 - (B) the subject of the threat or the person to whom the threat is communicated is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;
 - (C) the threat is communicated because of the occupation, profession, employment status, or ownership status of a person or the threat relates to or is made in connection with the occupation, profession, employment status, or ownership status of a person;
 - (D) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or
 - (E) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and



(2) Level 5 felony if:

(A) while committing it, the person draws or uses a deadly weapon;

(B) the subject of the threat or the person to whom the threat is communicated:

(i) is a judicial officer or bailiff of any court; or

(ii) is a prosecuting attorney or a deputy prosecuting attorney;

and the threat relates to the person's status as a judicial officer, bailiff, prosecuting attorney, or deputy prosecuting attorney, or is made in connection with the official duties of the judicial officer, bailiff, prosecuting attorney, or deputy prosecuting attorney; or

(C) the threat is:

(i) to commit terrorism; or

(ii) made in furtherance of an act of terrorism.

~~(c)~~ "Communicates" includes posting a message electronically, including on a social networking web site (as defined in IC 35-31.5-2-307):

~~(d)~~ (c) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of a person; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle. For purposes of this subdivision, the term includes an expression that would cause a reasonable person to consider the evacuation of a dwelling, a building, another structure, or a vehicle, even if the dwelling, building, structure, or vehicle is not evacuated.

SECTION 6. IC 35-45-10-3, AS AMENDED BY P.L.266-2019, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) As used in this chapter, "impermissible

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contact" includes the following:

- (1) Following or pursuing the victim.
- (2) Communicating with the victim. ~~in person; in writing; by telephone; by telegraph; or through electronic means.~~
- (3) Posting on social media, if the post:
 - (A) is directed to the victim; or
 - (B) refers to the victim, directly or indirectly.

(b) The list in subsection (a) is nonexclusive.

SECTION 7. IC 35-46-1-13, AS AMENDED BY P.L.238-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 13. (a) A person who:

- (1) believes or has reason to believe that an endangered adult or person of any age who has a mental or physical disability is the victim of battery, neglect, or exploitation as prohibited by this chapter or IC 35-42-2-1; and
- (2) knowingly fails to report the facts supporting that belief to the division of disability and rehabilitative services, the division of aging, the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult;

commits a Class B misdemeanor.

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the records of the division of aging under IC 12-10-3-12 through IC 12-10-3-15 commits a Class C infraction.

(c) A law enforcement agency that receives a report that an endangered adult or person of any age who has a mental or physical disability is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter or IC 35-42-2-1 shall immediately **communicate transmit** the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction."

Renumber all SECTIONS consecutively.

(Reference is to SB 70 as printed January 7, 2022.)

YOUNG M

